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TO: United States Patent Office
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DATE: December 15, 2006

RE: U.S. Serial No.: 09/551,408
Docket No.: 016770-002721US

Total no. of pages including cover: 13

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DOCUMENTS SUBMITTED

**Transmittal Form PTO/SB/21
Corrected Amendment B (11 pages)**

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/551,408	RECEIVED CENTRAL FAX CENTER DEC 15 2006
	Filing Date	April 18, 2000	
	First Named Inventor	Yehuda IVRI, et al.	
	Art Unit	3731	
	Examiner Name	Glenn K. DAWSON	
Total Number of Pages in This Submission	Attorney Docket Number	016770-002721US	

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	NEKTAR THERAPEUTICS		
Signature	<i>Michael J. Mazza</i>		
Printed name	Michael J. Mazza		
Date	15 Dec 2006	Reg. No.	30,775

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PATENT

Attorney Docket No.: 016770-002721US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Yehuda IVRI, et al.

Application No.: 09/551,408

Filed: April 18, 2000

For: METHODS AND APPARATUS
FOR STORING CHEMICAL
COMPOUNDS IN A PORTABLE
INHALER

Examiner: Glenn K. DAWSON

Art Unit: 3731

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

CORRECTED AMENDMENT B

Sir:

Applicant had submitted a Response (Amendment B) as well as a Petition and fee for extension of time, to an Office Action mailed July 24, 2006. A Notice of Non-Compliant Amendment was subsequently mailed to Applicant, November 21, 2006. Applicant therefore submits this Corrected Amendment B.

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RESPONSE TO RESTRICTION REQUIREMENT

37 C.F.R. §1.115

By the Office Action, pending claims 40-56 have been subjected to a restriction requirement wherein newly submitted claims 44-46 were alleged as independent or distinct from claims 40-43. It was contended that the inventions are distinct because:

the new claims are apparatus claims and as such, would be restrictable from the claimed method or process claims because a materially different process could be used to manufacture the claimed product such as it could have been molded or stamped instead of electroformed.

However, applicant notes that common to both sets of claims are the elements of a vibratory element comprising a palladium or palladium nickel alloy, a plurality of tapered apertures, and emission of liquid droplets upon vibration of the vibratory element.

Applicants hereby traverse the restriction requirement. Traverse is premised on the ground that a combined search of the two Groups does not impose an undue burden on the Examiner. As stated in the Manual of Patent Examining Procedure ("MPEP"),

[i]f the search and examination of an entire application can be made **without serious burden**, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

M.P.E.P. Section 803

In view of the relationship of the claims as apparatus and method of using, a search of potential art in this classification is simultaneously useful for each of these two Groups. In view of the above, it is therefore believed that search and examination of the entire application can be made without serious burden to the Examiner.

Applicants have responded to the Examiner's request for restriction by provisionally electing to prosecute Claims 40-43 (Group I), for examination purposes, and do so with traverse. By the election it is understood that Applicants neither agree nor disagree with the Examiner's characterization of the above-identified patentably distinct inventions Applicants' election is

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intended merely to expedite the prosecution in this case. In view of the foregoing remarks, reconsideration of the restriction requirement is respectfully requested.

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44. (Withdrawn) An apparatus for delivering aerosolized droplets of fluid to the respiratory system of a user, comprising:

a vibratory apertured element having a liquid receiving face; an aerosol emission face, and a plurality of tapered apertures therethrough, the apertures tapering from wide to narrow in the direction from the liquid receiving face to the aerosol emission face;

wherein the vibratory apertured element comprises an element comprised of a palladium-nickel alloy; and

wherein the apertures are configured to emit liquid droplets upon vibration of the vibratory apertured element.

45. (Withdrawn) The apparatus of claim 44, wherein the palladium-nickel alloy is comprised of about 80 percent of palladium and about 20 percent of nickel.

46. (Withdrawn) The apparatus of claim 45, wherein the palladium-nickel alloy is substantially comprised of about 80 percent of palladium and about 20 percent of nickel.

47. (Withdrawn) The apparatus of claim 46, wherein the alloy consists essentially of about 80 percent of palladium and about 20 percent of nickel.

48. (Withdrawn) The apparatus of claim 44, wherein the vibratory apertured element consists essentially of a unitary solid alloy element consisting of about 80 percent of palladium and about 20 percent of nickel.

49. (Withdrawn) The apparatus of claim 48, wherein the unitary solid alloy element consists essentially of about 80 percent of palladium and about 20 percent of nickel.

50. (Withdrawn) An apparatus for delivering aerosolized droplets of fluid to the respiratory system of a user, comprising:

a vibratory apertured element having a liquid receiving face; an aerosol emission face, and a plurality of tapered apertures therethrough, the apertures tapering from wide to narrow in the direction from the liquid receiving face to the aerosol emission face;